

**BEFORE THE  
PUBLIC SERVICE COMMISSION OF WISCONSIN**

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Application of Milwaukee Water Works, Milwaukee  
County, Wisconsin, for Authority to Increase Water Rates

Docket No. 3720-WR-107

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**REPLY TO RESPONSE OF MILWAUKEE WATER WORKS  
TO REQUEST TO INTERVENE OF CLEAN WISCONSIN**

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**I. INTRODUCTION.**

Clean Wisconsin timely filed a Request to Intervene (“Request”) in the above-captioned proceeding on October 1, 2009. (PSC REF# 120912). Milwaukee Water Works (“Milwaukee”) filed a Response to this Request (“Response”) on October 8, 2009. (PSC REF# 121341). Pursuant to Wis. Admin. Code § PSC 2.21 and 2.23(2), Clean Wisconsin hereby files its Reply to the Response of Milwaukee to its Request to Intervene (“Reply”). For the reasons stated herein and in the Request, the Commission should grant the Request to Intervene; Clean Wisconsin satisfies the standards for both intervention by right and permissive intervention.

**II. THE COMMISSION SHOULD GRANT CLEAN WISCONSIN INTERVENTION BY RIGHT OR, ALTERNATIVELY, PERMISSIVE INTERVENTION.**

In its Request, Clean Wisconsin set forth clear, established, and legally protected interests of its members that will be affected by the decision of the Commission in this proceeding, as required for intervention by right. *See* Request at 1-2; Wis. Admin Code § PSC 2.21(1). In response, Milwaukee asserts, without support, that the stated interests of Clean Wisconsin are insufficient. *See* Response at 2.

Milwaukee has proposed a rate design that rewards overconsumption of water by establishing a lower rate per gallon as usage increases. Milwaukee has failed to propose any formal conservation program. These actions by Milwaukee will directly affect Clean Wisconsin

members by harming aquatic ecosystems in the Lake Michigan basin and increasing emissions of greenhouse gases. Absent the intervention of Clean Wisconsin, there will be no representation of the position of Clean Wisconsin members and no presentation of evidence supporting its positions to protect its members. *See Helgeland v. Wis. Municipalities*, 2008 WI 9, ¶ 45, 307 Wis. 2d 1, 745 N.W.2d 1 (a party may intervene when the party “needs to protect a right that would not otherwise be protected in the litigation”) (internal citations omitted). Clean Wisconsin thus satisfies the standard for intervention by right.

In its Request, Clean Wisconsin also set forth plans for timely participating in this proceeding to further the proper disposition of the issues, as required for permissive intervention. *See* Request at 2-3; Wis. Admin Code § PSC 2.21(2). In response, Milwaukee asserts, without support, that conservation programs are not relevant to water utility rate cases and that participation by Clean Wisconsin will delay the proceeding. *See* Response at 2-3.

Clean Wisconsin has been an active participant in five water utility rate cases over the past six months. Participation by Clean Wisconsin has facilitated consideration by the Commission of conservation rates and programs that would not otherwise have been presented, thereby furthering the disposition of the issues in each case. *See, e.g.*, Application of City of Waukesha, Waukesha County, Wisconsin, for Authority to Increase Water Rates, Direct Testimony of Vishwa M. Kashyap at 6, Docket No. 6240-WR-106 (May 28, 2009) (PSC REF# 114101) (“[T]he proposed inclining block rate structure would send a strong conservation price signal to residential customers.”); Application of Janesville Water Utility, Rock County, Wisconsin, for Authority to Increase Water Rates, Exhibit 6, PSC Staff Rate Exhibit at 2, Docket No. 2740-WR-107 (September 1, 2009) (PSC REF# 119295) (“Higher than average residential water users will receive increases ranging from modest for customers slightly in excess of the average to significant for customers greatly in excess of the average.”).

Indeed, in granting the request for intervenor compensation by Clean Wisconsin in the most recent rate case of the Janesville Water Utility, Chairman Callisto observed that “[t]here have been some results on conservation plans proposed to this point, as well as the conservation rates that would not have been achieved in the absence of involvement” and expressed his support for “this good group’s work on these cases.” *See* Utility Regulation Report, PSCW Open Meeting: Thursday, September 17, 2009 at 10:30 a.m., at 25. Accordingly, conservation programs are a relevant and important part of water utility rate cases and involvement by Clean Wisconsin has facilitated consideration by the Commission of such programs.

Further, through its intervention in past water utility rate cases, Clean Wisconsin in no way delayed any of the proceedings. In each case, Clean Wisconsin worked collaboratively with the utility and Commission staff to incorporate consideration of conservation rates and programs into the standard process for evaluating and establishing the utility revenue requirement and rate design. In this proceeding, Clean Wisconsin plans to do the same. Clean Wisconsin timely intervened and has already held initial discussions with the utility and Commission staff regarding the issues in the case. No schedule has been set in this proceeding and none of the primary elements of the case (revenue requirement, cost of service study, or rate design) have been completed. Therefore, there is no reason to expect that participation by Clean Wisconsin in this proceeding will delay any part of the proceeding in any way. Accordingly, Clean Wisconsin satisfies the standard for permissive intervention.

### III. CONCLUSION.

For the reasons stated herein and in the Request, the Commission should grant Clean Wisconsin intervention by right or, alternatively, permissive intervention.

Dated this 15th day of October, 2009.

Respectfully submitted,

**CULLEN WESTON PINES & BACH LLP**

*/s/ Jeffrey L. Vercauteren*

By: \_\_\_\_\_

Kira E. Loehr  
Jeffrey L. Vercauteren  
Attorneys for Clean Wisconsin

122 West Washington Avenue, Suite 900  
Madison, WI 53703  
Phone: (608) 251-0101  
Facsimile: (608) 251-2883  
loehr@cwpb.com  
vercauteren@cwpb.com